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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/926,395	10/25/2001	Koschi Kawata	011424	9955
23850	7990	01/25/2004		
ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP 1725 K STREET, NW SUITE 1000 WASHINGTON, DC 20006				
			EXAMINER RHEE, JANE I	
			ART UNIT 1772	PAPER NUMBER

DATE MAILED: 01/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No. 09/526,395	Applicant(s) KAWATA ET AL.
Examiner Jane J Rhee	Art Unit 1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
 Period for Reply

## A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Rejection Withdrawn***

1. The 35 U.S.C. 102 of claims 1-11 anticipated by Wakizaka et al. of record in Paragraph 1 of Paper 10 has been withdrawn due to Applicant's argument of 9/5/03.

***New Rejection***

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1,5-9,11 are rejected under 35 U.S.C. 102(e) as being anticipated by Itoh et al. (6042906).

Itoh et al. discloses a laminate of a multi-layer structure, comprising at least one alicyclic polymer layer (col. 6 line 52-53, col. 8 lines 60-61), one thermoplastic resin layer (col. 6 line 54-55) which comprises thermoplastic resin other than those used in the polymer layer (A) and at least one layer of resin composition comprising an alicyclic polymer and a thermoplastic resin (col. 6 line 56 and col. 15 lines 1-16). Itoh et al. discloses that the multilayer structure is composed of thermoplastic resin layer, resin composition layer, alicyclic polymer layer, resin composition layer, and thermoplastic resin layer (col. 17 lines 52-59). Itoh et al. discloses that the total ratio of the alicyclic

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polymer layer to the thermoplastic resin layer is 1:99 to 70:30 (col. 17 lines 1-5). Itoh et al. discloses that the thickness proportion of the resin composition layer is 100-30% based on the total thickness of alicyclic polymer layer and the thermoplastic resin layer (col. 17 lines 1-5) which is in applicant's claimed range of 5-100% based on the total thickness of the alicyclic polymer layer and the thermoplastic resin layer. Itoh et al. discloses that the thickness of the alicyclic polymer is 30 to 300  $\mu\text{m}$  (col. 17 lines 60-61) which is in applicant's claimed range of 0.1 to 180 $\mu\text{m}$ , the thickness of the thermoplastic resin layer is 5  $\mu\text{m}$  to 100 $\mu\text{m}$  (col. 17 lines 64-65) which is in applicant's claimed range of 0.2 to 250 $\mu\text{m}$ , and the thickness of the resin composition layer is 30 to 300 $\mu\text{m}$  (col. 17 lines 60-61) which is in applicant's claimed range of 0.07 to 75 $\mu\text{m}$ . Itoh et al. discloses that the thickness of the laminate is 100 to 1000 $\mu\text{m}$  (col. 16 lines 65-67) which is in applicant's claimed range of 0.5 $\mu\text{m}$  to 5mm. Itoh et al. discloses that laminate is formed in the form of a container (col. 1 line 7).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Itoh et al. in view of Kakugo et al. (5141994).

Itoh et al. discloses the laminate described above. Itoh et al. fail to disclose that the resin composition layer C is a linear low density polyolefin having a long period of at most 275 angstroms as measured by the small angle X-ray scattering method. Kakugo et al. teaches a linear low density polyolefin having a long period of less than 186 angstroms as measured by the small angle X-ray scattering method (col. 14 line 40) for the purpose of providing relatively excellent rigidity, heat resistance and surface hardness (col. 1 lines 14-16).

Therefore, it would have been obvious to one having ordinary skill in the art at the time applicant's invention was made to provide Itoh et al. with a linear low density polyolefin having a long period of at most 275 angstroms as measured by the small angle X-ray scattering method in order to provide a relatively excellent rigidity, heat resistance and surface hardness (col. 1 lines 14-16).

5. Claims 3-4,10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Itoh et al. in view of Hirose et al. (6165573).

Itoh et al. discloses the laminate described above. Itoh et al. fail to disclose that the alicyclic polymer forming alicyclic polymer layer A is a norbornene polymer wherein the norbornene polymer is a hydrogenated product of a ring-opening polymer of a norbornene monomer. Itoh et al. fail to disclose that the laminate is in the form of a film or sheet. Hirose et al. teaches that the alicyclic polymer forming the alicyclic polymer layer is a norbornene polymer (col. 28 lines 20-24) wherein that the norbornene polymer is a hydrogenated product of a ring-opening polymer of a norbornene monomer (col. 28 lines 30) for the purpose of providing excellent interlaminar bond properties, formability,

moisture resistance, transparency, moderate flexibility, tearability, heat sealing properties and dead fold properties but also in vacuum or pressure formability (col. 33 lines 27-34). Hirose et al. teaches that the laminate is in the form of a film or sheet for the purpose of favorably sealing the objects packed (col. 33 lines 36-38).

Therefore, it would have been obvious to one having ordinary skill in the art at the time applicant's invention was made to provide Itoh et al. with the alicyclic polymer forming the alicyclic polymer layer that is a norbornene polymer wherein that the norbornene polymer is a hydrogenated product of a ring-opening polymer of a norbornene monomer in order to provide excellent interlaminar bond properties, formability, moisture resistance, transparency, moderate flexibility, tearability, heat sealing properties and dead fold properties but also in vacuum or pressure formability (col. 33 lines 27-34) as taught by Hirose et al.

Furthermore, it would have been obvious to one having ordinary skill in the art at the time applicant's invention was made to provide Itoh et al. with the laminate that is in the form of a film or sheet in order to favorably sealing the objects packed (col. 33 lines 36-38) as taught by Hirose et al.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-11 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

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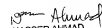
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jane J Rhee whose telephone number is 571-272-1499. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nasser Ahmad can be reached on 571-272-1487. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and ~~703-872-9311 for After-Final communications.~~

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



Jane Rhee  
January 12, 2004

  
NASSER AHMAD  
PRIMARY EXAMINER